



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

**NOV 24 2015**

Christopher S. Mallery, Acting Chief  
Regulatory Branch  
U.S. Army Corps of Engineers  
New York District  
Jacob K. Javits Federal Building  
New York, NY 10278-0090

Dear Dr. Mallery:

This letter is in further regard to Public Notice NAN-1998-00290 regarding the request from the Hudson River Park Trust (Trust) to replace Pier 54 with a new structure in a new location. U.S. Environmental Protection Agency's (EPA) previous letter, dated November 4, 2015, is a 404(q) 3(a) letter in which we stated that the proposed project may result in unacceptable impacts to an aquatic resource of national importance. We are aware that the February 2015 Joint Application (Pier 54 and Pier 54 Pile Field Request for Modification of U.S. Army Corps of Engineers (USACE) Permit 1998-00299) submitted by the Trust contains additional information and we based our review in part on that information. Based on further review of this material, the EPA withdraws those concerns. However, in the interest of providing an improved level of protection for the Hudson River, the EPA requests that USACE address the comments below.

Planning for resilience to climate change is key in vulnerable coastal areas such as New York City. The planned raising of the vast majority of the pier above the 100 year flood plain and the flood proofing of the few remaining areas is intended to reduce damage from storm surge and rising sea levels. However, more frequent and possibly less intense storms, such as nor'easters, also pose the threat of damage from high winds and waves. The EPA has an interest in reducing marine debris and requests that the applicant establish, implement and periodically review and update a plan to manage storm wind damage to objects on the pier and to prevent debris from being blown into the water.

Shading is an issue of concern for fish habitat when placing structures in water. Raising the pier and the inclusion of gaps or breaks in the decking are design elements of the proposal that are intended to increase the amount of solar exposure below the pier. The applicant should also consider further reduction of shading through the use of grates or transparent materials in appropriate locations.

The location, size and configuration of the pier as now proposed was not in the original permit. The proposed new configuration of Pier 54 covers 2.7 acres, or 0.8 acres more than the original footprint of 1.9 acres. It is proposed to be built just north of the original Pier 54 footprint within Segment 5 as a raised square, rather than the prior low linear pier. The Public Notice states that

some features within Segment 5 of the Park will not be constructed and others have changed, due to improved construction techniques, engineering or design requirements. The additional 0.8 acres of coverage should be offset by reducing the amount of coverage of other features in this segment. The EPA requests that the permit modification, should it be issued, document this offset, and include an updated table of allowable coverage calculations for this segment similar to Sheet 29 in the February 2015 Joint Application.

Management of stormwater on the pier is critical to maintaining water quality surrounding the pier. The use of compost for maintaining soil fertility and the non-use of pesticides are appropriate. However, the plan for the pier does include significant plantings and landscaping. Given the sensitivity of the surrounding Hudson River to excess nutrients, the property manager should be directed to amend soils and maintain plantings consistent with a nutrient management plan developed and updated periodically to attain or approach zero discharge of nutrients to the River.

The project's post-construction plans should include operation and maintenance training for staff who will be operating and maintaining the stormwater Best Management Practices (BMPs) in the project and ensure that there is a schedule for the operation and maintenance of the BMPs at the site.

Finally, since the project location is within a non-attainment area for ozone and a maintenance area for PM2.5, USACE should make a general conformity determination. A general conformity applicability analysis considering all direct and indirect sources of emissions should be conducted in accordance with 40 CFR 93.153. Should the emissions of any pollutant or precursor exceed its applicable de minimis level (40 CFR 93.153(b)), a full conformity determination would be required for that pollutant or precursor.

If you have any further questions, please contact me at 212-637-3788 or via email at [balla.richard@epa.gov](mailto:balla.richard@epa.gov).

Sincerely,



Richard P. Balla, Chief  
Watershed Management Branch